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OFFICE OF PETITIONS

In re Application of

N/A

Application No. 10/057,061

Filed: January 24, 2002

Attorney Docket No. 10541-1186

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DECISION ON PETITION

This is a decision on the petition, filed February 9, 2004 and supplemented on October 26, 2005, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely or properly reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 25, 2002, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before April 25, 2002.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 22, 2002. A copy of the previously submitted reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on April 22, 2002 is not complete in the record of the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the complete reply submitted on April 22, 2002 was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 22, 2002.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions